IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
THURSDAY, THE FIRST DAY OF JULY
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE K.C. BHANU
WRIT PETITION NO : 10994 of 2004

Between:

P. Mohiddinsaheb, S/o. Masood Saheb, Muslim,
R/o. D.No. 19-2-493, Ranigunj, Old Town, Ananthapur,
Ananthapur District.

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PETITIONER

AND

1 The Depot Manager, A.P.S.R.T.C., Dharmavaram Depot,
Dharamavaram, Ananthapur District.
2 The Deputy Chief Traffic Manager, A.P.S.R.T.C , Ananthapur Region,
Ananthapur.
3 The Regional Manager, A.P.S.R.T.C , Ananthapur Region,
Ananthapur.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the Ist respondent in differing one Annual increment of the petitioner with cumulative effect vide proceedings No. 01/2(23)/96-DVRM dt. 6-6-1997 and confirming the same by the respondents 2 and 3 herein vide their proceedings No. ST/19(263)/97-DY, CTM 'A' Dated, 20-5-1999 and proceedings No. PA/20(21)/2001-RM, Dated. 30-5-01 as illegal, arbitrary and in violation of principles of Natural Justice and in violation of Articles 14 and 21 of the Constitution of India and consequently direct the respondents to add one annual increment to the pay of the petitioner.

For the Petitioner:S.SURENDRA KUMAR, Advocate

For the Respondent Nos.1 to 3: MR.P.VINAYAKA SWAMY, Standing Counsel for A.P.S.R.T.C.

The Court made the following :

ORDER:

At the request of the learned counsel appearing on both sides, the writ petition itself is taken up for hearing and disposal.

A case in Crime No.35 of 1995, dated 28-02-1995 of C.K.Palle Police Station was registered against the petitioner under Section 337 IPC, basing on which the respondent-corporation issued a charge memo to the petitioner, for which writ petitioner gave explanation. It is contended by the learned counsel appearing for the petitioner that without considering the explanation offered by the petitioner and without conducting enquiry the first respondent imposed penalty of deferment of one increment with cumulative effect vide Proceedings dated 06.06.1997. The same has been confirmed by the second respondent and the review of the petitioner was also rejected by the third respondent by proceedings dated 30.05.2001.

The learned counsel appearing for the writ petitioner contended that major penalty cannot be imposed without conducting enquiry and, therefore, he prays to modify the penalty imposed on the petitioner since the accident took place in the year 1995.

The learned standing counsel appearing for respondent

opposed the same and submitted that there are no grounds to interfere with the findings given by the lower authorities.

The accident took place on 28.08.1995, wherein one lady passenger while getting down from the bus sustained injuries. Therefore, the first respondent called for explanation from the petitioner and having not been satisfied with the explanation offered by the petitioner, the first respondent imposed the penalty of deferment of one increment with cumulative effect vide proceedings dated 06.06.1997. There cannot be any dispute that imposing penalty of stoppage of one increment with cumulative effect, is major penalty, which cannot be imposed without conducting regular departmental enquiry as per the Regulations of the Corporation. Admittedly, in this case no such departmental enquiry is conducted. Though the matter can be remitted back to the first respondent, but under the peculiar facts and circumstances of the case, as the accident took place about nine years back, it is not desirable to remit back the matter again, perhaps that is the reason why the learned counsel appearing for the petitioner, has requested this court to impose minor penalty instead of major penalty.

Having regard to the facts and circumstances of the case the punishment of major penalty of deferment of one increment with cumulative effect, imposed by the first respondent, as confirmed by the second and third respondents can be reduced with slight modification. Therefore, the impugned order of punishment is modified as deferment of one increment without cumulative effect.

Accordingly, the writ petition is disposed of. In the circumstances no costs.

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K.C.BHANU, J

Dated: 1st July, 2004

Lsk.

To

1 The Depot Manager, A.P.S.R.T.C., Dharmavaram Depot, Dharamavaram, Ananthapur District.

2 The Deputy Chief Traffic Manager, A.P.S.R.T.C , Ananthapur Region, Ananthapur.

3 The Regional Manager, A.P.S.R.T.C , Ananthapur Region, Ananthapur.

4. Two C.D.Copies.